



DEPARTMENT OF HOMELAND SECURITY

[DHS Docket No. ICEB-2021-0008]

RIN 1653-ZA20

Employment Authorization for Haitian F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Current Crisis in Haiti

AGENCY: U.S. Immigration and Customs Enforcement (ICE), DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) has suspended certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is Haiti (regardless of country of birth) and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. The Secretary is taking action to provide relief to Haitian citizens who are lawful F-1 nonimmigrant students so the students may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status. DHS will deem an F-1 nonimmigrant student who receives employment authorization by means of this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

DATES: This F-1 notice is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through February 3, 2023.

FOR FURTHER INFORMATION CONTACT: Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and

Customs Enforcement, 500 12th Street, SW, Washington, DC 20536-5600; e-mail:

sevp@ice.dhs.gov, telephone: (703) 603-3400. This is not a toll-free number. Program information can be found at <http://www.ice.gov/sevis/>.

SUPPLEMENTARY INFORMATION:

What action is the Department of Homeland Security (DHS) taking under this notice?

The Secretary of Homeland Security is exercising authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F-1 nonimmigrant students whose country of citizenship is Haiti (regardless of country of birth) who are present in the United States in lawful F-1 nonimmigrant student status as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. DHS initially suspended certain regulatory requirements for F-1 nonimmigrant students experiencing severe economic hardship as a direct result of the January 12, 2010 earthquake in Haiti. *See* 75 FR 56120 (Sep. 15, 2010). The original notice was effective from September 15, 2010, until July 22, 2011. A subsequent notice provided for an 18-month extension from July 22, 2011, through January 22, 2013. *See* 76 FR 28997 (May 19, 2011). A third notice provided another 18-month extension from January 22, 2013, through July 22, 2014. *See* 77 FR 59942 (Oct. 1, 2012). A fourth notice provided for another 18-month extension from July 22, 2014, through January 22, 2016. *See* 79 FR 11805 (Mar. 3, 2014). A fifth notice provided for another 18-month extension from January 22, 2016, through July 22, 2017. *See* 80 FR 51579 (Aug. 25, 2015). Effective with this publication, suspension of the employment limitations is available through February 3, 2023, for those who are in lawful F-1 nonimmigrant status as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. DHS will deem an F-1 nonimmigrant student granted employment authorization through this notice to be engaged in a

“full course of study,” for the duration of the employment authorization if the student satisfies the minimum course load set forth in this notice.¹ *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered by this notice?

This notice applies exclusively to F-1 nonimmigrant students who meet all of the following conditions:

- (1) Are citizens of Haiti, regardless of country of birth;
- (2) Were lawfully present in the United States in an F-1 nonimmigrant status on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i);
- (3) Are enrolled in an institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment of F-1 nonimmigrant students;
- (4) Are maintaining F-1 status; and
- (5) Are experiencing severe economic hardship as a direct result of the current crisis in Haiti.

This notice applies to F-1 nonimmigrant students in an approved private school in grades kindergarten through grade 12, public school in grades 9 through 12, and undergraduate and graduate education. An F-1 nonimmigrant student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for the relief provided by means of this notice. Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

Why is DHS taking this action?

¹ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engaged in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of February 3, 2023, provided the student satisfies the minimum course load requirements in this notice. DHS also considers students who engage in online coursework pursuant to ICE coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance on COVID-19, *available at* <https://www.ice.gov/coronavirus> [last visited May 2021].

As a result of the current crisis in Haiti, the Secretary designated Haiti for Temporary Protected Status (TPS) for 18 months, effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through February 3, 2023, based on extraordinary and temporary conditions in Haiti that prevent nationals from returning safely, specifically, a political crisis accompanied by human rights abuses; serious security concerns; and the Coronavirus 2019 (COVID-19) pandemic's exacerbation of a dire economic situation and lack of access to food, water, and healthcare. Previously, DHS took action to provide temporary relief to F-1 nonimmigrant students whose country of citizenship is Haiti and who experienced severe economic hardship because of the January 12, 2010 earthquake. *See* 75 FR 56120 (Sept. 15, 2010). That action along with subsequent extension notices,² enabled these F-1 nonimmigrant students to obtain employment authorization, work an increased number of hours while the academic institution was in session, and reduce their course loads, while continuing to maintain F-1 nonimmigrant student status. DHS has reviewed conditions in Haiti and determined that making employment authorization available for eligible nonimmigrant students is again warranted due to the current crisis in Haiti.

Haiti faces significant human rights issues stemming from presidential use of executive decrees for a range of actions to include creating an intelligence agency accountable only to the president,³ in addition to serious security concerns resulting from gang violence that is allegedly supported and protected by the state.⁴ The Human Rights Service of the United Nations

² *See* Extension of Employment Authorization for Haitian F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti, 76 FR 28997 (May 19, 2011); Extension of Employment Authorization for Haitian F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti, 77 FR 59942 (Oct. 1, 2012); Extension of Employment Authorization for Haitian F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti, 79 FR 11805 (Mar. 3, 2014); Extension of Employment Authorization for Haitian F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti, 80 FR 51579 (Aug. 25, 2015).

³ Andre Paultre and Sarah Marsh "The battle for democracy goes on in Haiti as Moïse gains power," *The Christian Science Monitor*, March 30, 2021, *available at* <https://www.csmonitor.com/World/Americas/2021/0330/The-battle-for-democracy-goes-on-in-Haiti-as-Moise-gains-power> [last visited May 2021].

⁴ 2020 Country Reports on Human Rights Practices: Haiti, United States Department of State, March 30, 2021, *available at* <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/haiti/> [last visited May 2021].

Integrated Office in Haiti and the Office of the High Commissioner for Human Rights reported a 333% increase in the number of human rights violations and abuses by law enforcement officials and non-state actors, respectively, against the rights to life and security of person during the protests that took place between July 6, 2018 and December 10, 2019.⁵ On March 24, 2021, the U.N. Security Council expressed concern with “reported violations and abuses of international human rights, including some involving the alleged use of deadly force against protesters and reported arbitrary arrest and detentions,” and called on the Inspector General of the Haitian National Police to conduct a thorough investigation of the reported incidences.⁶ Security conditions in Port-au-Prince have deteriorated due to an increase in kidnappings and political protests.⁷ Furthermore, gang-related violent crimes have expanded outside of Port-au-Prince with increased crime occurring on major routes of travel.⁸ On April 21, 2021, the Department of State issued a Level 4 Travel Advisory for Haiti because of widespread kidnappings and violent crimes.⁹ On June 10, 2021, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported an upsurge in deadly clashes between gangs in Port-au-Prince and an overall increase to some 10,000 residents who have been displaced due to this and similar incidents in the past 12 months.¹⁰ Further, beginning on June 24, 2021, multiple news organizations reported that one of Haiti’s most powerful gang leaders, a former police officer, warned of launching a “revolution” against the country’s business and political elites, signaling a

⁵ Unrest in Haiti: Their Impact on Human Rights and the State’s Obligation to Protect all Citizens, United Nations Office of the High Commissioner for Human Rights/United National Integrated Office in Haiti, Jan. 18, 2021, *available at* <https://binuh.unmissions.org/en/unrest-haiti-their-impact-human-rights-and-state%E2%80%99s-obligation-protect-all-citizens-0> [last visited May 2021].

⁶ Security Council Presidential Statement Expresses Deep Concern over Multiple Crises in Haiti, Stressing Government’s Primary Duty to Tackle Instability, United Nations Security Council Press Release, March 24, 2021, *available at* <https://www.un.org/press/en/2021/sc14474.doc.htm> [last visited May 2021].

⁷ Haiti – Complex Emergency Fact Sheet #1, Fiscal Year 2021, U.S. Agency for International Development (USAID), Jan. 19, 2021, *available at* <https://reliefweb.int/report/haiti/haiti-complex-emergency-fact-sheet-1-fiscal-year-fy-2021> [last visited May 2021].

⁸ Haiti 2020 Crime and Safety Report, Overseas Security Advisory Council (OSAC), U.S. Department of State, *available at* <https://www.osac.gov/Content/Report/09752c66-7cac-47f7-a92e-188fe7af0f75> [last visited May 2021].

⁹ Haiti Travel Advisory, U.S. Department of State, Apr. 21, 2021, *available at* <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/haiti-travel-advisory.html> [last visited May 2021].

¹⁰ Daily Noon Briefing Highlights, United Nations Office for the Coordination of Humanitarian Affairs, 10 June 2021, *available at* <https://www.unocha.org/story/daily-noon-briefing-highlights-ethiopia-haiti>.

likely further escalation of violence in Haiti.¹¹ On July 7, 2021, a group of assailants attacked President Moïse's residence and killed him. No one has claimed responsibility for the assassination.

Haiti has few resources to tackle its political instability and frequent natural disasters.¹² According to the World Bank, it is “the poorest country in the Latin America and Caribbean region and among the poorest countries in the world” ranking 170 out of 189 countries on the 2020 Human Development Index.¹³ Haitians rely heavily on remittances sent from abroad,¹⁴ with remittances constituting approximately 23% of Haiti's Gross Domestic Product (GDP) in 2019.¹⁵ Haiti experienced a negative growth rate of approximately 1.7% in 2019 followed by an estimated 3.8% contraction in 2020, as COVID-19 exacerbated its already weak economy and political instability.¹⁶ The World Bank reports an inflation rate at nearly 23% for 2020.¹⁷ Public frustration with Haiti's economy has contributed to ongoing demonstrations.¹⁸

According to USAID the country still suffers from the lingering impact of the 2010 earthquake and Hurricane Matthew in 2016 that exacerbated its existing inadequate healthcare infrastructure as well as access to electricity, clean water, and sanitation systems.¹⁹ Approximately 40% of Haitians lack access to essential health and nutrition services, which have been exacerbated by the COVID-19 pandemic.²⁰ The United Nations World Food Programme

¹¹ See e.g., “Haiti Gang Leader Launches ‘Revolution’ as Violence Escalates”, U.S. News and World Report, June 24, 2021 and “Haiti gang leader threatens ‘revolution’”, The New York Carib News, June 26, 2021.

¹² Taft-Morales, Maureen, Haiti's Political and Economic Conditions, Congressional Research Service (CRS), p.5, Mar. 5, 2020, *available at* <https://crsreports.congress.gov/product/pdf/R/R45034> [last visited May 2021].

¹³ Haiti Overview, The World Bank, last updated Apr 26, 2021, *available at* <https://www.worldbank.org/en/country/haiti/overview> [last visited May 2021].

¹⁴ Taft-Morales, Maureen, Haiti's Political and Economic Conditions, Congressional Research Service (CRS), p.5, Mar. 5, 2020, *available at* <https://fas.org/sgp/crs/row/R45034.pdf> [last visited May 2021].

¹⁵ Personal Remittances, Received - Haiti, The World Bank, *available at* <https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS?end=2019&locations=HT&start=1971&view=chart> [last visited May 2021].

¹⁶ Haiti Overview, The World Bank, last updated Apr 26, 2021, *available at* <https://www.worldbank.org/en/country/haiti/overview> [last visited May 2021].

¹⁷ Inflation, Consumer Prices (Annual %) – Haiti, The World Bank, *available at* <https://data.worldbank.org/indicator/FP.CPI.TOTL.ZG?locations=HT> [last visited May 2021].

¹⁸ Taft-Morales, Maureen, Haiti's Political and Economic Conditions, Congressional Research Service (CRS), p.5, Mar. 5, 2020, *available at* <https://fas.org/sgp/crs/row/R45034.pdf> [last visited May 2021].

¹⁹ Haiti Health Fact Sheet, U.S. USAID, Jan. 2020, *available at* <https://www.usaid.gov/documents/1862/usaidhaiti-health-fact-sheet-january-2020> [last visited May 2021].

²⁰ *Id.*

reports that Haiti's weather, economic shocks, and insecurity are the main factors driving up food prices and that the country is vulnerable to inflation and price volatility, especially during crises such as the COVID-19 pandemic.²¹ Between August 2020 and February 2021, approximately 42% of the population faced high acute food insecurity, and this is projected to rise to 46% of the population for March 2021 to June 2021.²² Further, on June 10, 2021, OCHA reported that displaced residents as a result of deadly gang clashes are in need of urgent humanitarian assistance and protection to include sanitation shelter, access to clean water and food.²³

As of May 23, 2021, 1,083 F-1 nonimmigrants students whose country of citizenship is Haiti were physically present in the United States and enrolled in SEVP-certified academic institutions. Given the extent of the current crisis in Haiti, affected F-1 nonimmigrant students whose primary means of financial support comes from Haiti may need to be exempt from the normal student employment requirements to continue studying in the United States. The current crisis has created financial barriers for F-1 nonimmigrant students which could interfere with their ability to support themselves and return to Haiti for the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses. DHS is therefore making employment authorization available for F-1 nonimmigrant students whose country of citizenship is Haiti (regardless of country of birth), who are in lawful F-1 nonimmigrant student status as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], who are currently maintaining F-1 status, and who are experiencing severe economic hardship as a result of the current crisis in Haiti.

What is the minimum course load requirement set forth in this notice?

²¹ The Cost of A Plate of Food – 2020: Haiti, United Nations World Food Programme, *available at* <https://cdn.wfp.org/2020/plate-of-food/> [last visited May 2021].

²² Haiti: Acute Food Insecurity Situation August 2020-February 2021 and Projection for March-June 2021, Integrated Food Security Phase Classification, *available at* <http://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1152816/?iso3=HTI> [last visited May 2021].

²³ Daily Noon Briefing Highlights, United Nations Office for the Coordination of Humanitarian Affairs, 10 June 2021, *available at* <https://www.unocha.org/story/daily-noon-briefing-highlights-ethiopia-haiti>.

Undergraduate F-1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term.²⁴ A graduate-level F-1 nonimmigrant student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v).

In addition, an F-1 nonimmigrant student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load requirement, unless the course of study is in an English language study program.²⁵ *See* 8 CFR 214.2(f)(6)(i)(G). An F-1 nonimmigrant student attending an approved private school in grades kindergarten through grade 12 or public school in grades 9-12 must maintain “class attendance for no less than the minimum number of hours a week prescribed by the school for normal progress toward graduation,” as required under 8 CFR 214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

May an eligible F-1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. A Haitian F-1 nonimmigrant student who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i)(A) and (B) and certain employment eligibility requirements under 8 CFR

²⁴ Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” *See* 8 CFR 214.2(f)(6)(i)(B).

²⁵ DHS considers students who engage in online coursework pursuant to ICE COVID-19 guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, *available at* <https://www.ice.gov/coronavirus> [last visited Mar. 2021]

214.2(f)(9). Such an eligible F-1 nonimmigrant student may benefit without having to apply for a new Form I-766, Employment Authorization Document (EAD). To benefit from this notice, the F-1 nonimmigrant students must request that their designated school official (DSO) enter the following statement in the remarks field of the student's Student and Exchange Visitor Information System (SEVIS) record so the student's Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status, reflects:

Approved for more than 20 hours per week of [DSO must insert "on-campus" or "off-campus," depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert either the student's program end date, the current EAD expiration date (if the student is currently working off campus), or the end date of this notice, whichever date comes first].

Must the F-1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces their "full course of study"?

No. DHS will deem an F-1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a "full course of study" for the duration of the student's employment authorization, provided that a qualifying undergraduate level F-1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F-1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term.²⁶ See 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F-1 nonimmigrant status.

²⁶ Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a "full course of study." See 8 CFR 214.2(f)(6)(i)(B).

Will an F-2 dependent (spouse or minor child) of an F-1 nonimmigrant student covered by this notice be eligible to apply for employment authorization?

No. An F-2 spouse or minor child of an F-1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F-2 nonimmigrant status. *See* 8 CFR 214.2(f)(15)(i).

Will the suspension of the applicability of the standard student employment requirements apply to an individual who receives an initial F-1 visa and makes an initial entry in the United States after the effective date of this notice in the Federal Register?

No. The suspension of the applicability of the standard regulatory requirements only applies to those F-1 nonimmigrant students who meet the following conditions:

- (1) Are citizens of Haiti, regardless of country of birth;
- (2) Are lawfully present in the United States in F-1 nonimmigrant status on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i);
- (3) Are enrolled in an academic institution that is SEVP certified for enrollment of F-1 nonimmigrant students;
- (4) Are maintaining F-1 nonimmigrant status; and
- (5) Are experiencing severe economic hardship as a direct result of the current crisis in Haiti.

An F-1 nonimmigrant student who does not meet all of these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements (even if experiencing severe economic hardship as a direct result of the current crisis in Haiti).

Does this notice apply to a continuing F-1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register, [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER], and who needs to obtain a new F-1 visa before returning to the United States to continue an educational program?

Yes. This notice applies to such a nonimmigrant student, but only if the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I-20. The normal rules for visa issuance remain applicable to a nonimmigrant who needs to apply for a new F-1 visa to continue an educational program in the United States.

Does this notice apply to elementary school, middle school, and high school students in F-1 status?

Yes. However, this notice does not by itself reduce the required course load for F-1 nonimmigrant students enrolled in private kindergarten through grade 12, or public high school grades 9 through 12. Such Haitian students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress toward graduation. *See* 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F-1 nonimmigrant students regardless of educational level. Eligible F-1 nonimmigrant students covered by this notice who are enrolled in an elementary school, middle school, or high school do benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session. Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

On-Campus Employment Authorization

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?

Yes. For an F-1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F-1 nonimmigrant student's on-campus employment to 20 hours per week while school is in session. An eligible nonimmigrant student has authorization to work more than 20 hours per week while school is in

session if the DSO has entered the following statement in the remarks field of the SEVIS student record, which will appear on the student's Form I-20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].

To obtain on-campus employment authorization, the F-1 nonimmigrant student must demonstrate to their DSO that the employment is necessary to avoid severe economic hardship directly resulting from the current crisis in Haiti. A nonimmigrant student authorized by their DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting fulltime employment on-campus when school is not in session or during school vacations apply. *See* 8 CFR 214.2(f)(9)(i).

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain the student's F-1 nonimmigrant status?

Yes. DHS will deem an F-1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a “full course of study”²⁷ for the purpose of maintaining their F-1 nonimmigrant student status for the duration of the on-campus employment if the student satisfies the minimum course load requirement described in this notice. *See* 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F-1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if the

²⁷ *See* 8 CFR 214.2(f)(6).

reduction would not meet the school's minimum course load requirement for continued enrollment.²⁸

Off-Campus Employment Authorization

What regulatory requirements does this notice temporarily suspend relating to off-campus employment?

For an F-1 nonimmigrant student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

- (a) The requirement that a student must have been in F-1 nonimmigrant status for one full academic year in order to be eligible for off-campus employment;
- (b) The requirement that an F-1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;
- (c) The requirement that limits an F-1 nonimmigrant student's employment authorization to no more than 20 hours per week of off-campus employment while school is in session; and
- (d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

Will an F-1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F-1 nonimmigrant status?

Yes. DHS will deem an F-1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a “full course of study” for purpose of maintaining F-1 nonimmigrant student status for the duration of the student’s employment authorization if the student satisfies the minimum course load requirement described in this

²⁸ Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, Web site, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

notice. *See* 8 CFR 214.2(f)(6)(i)(F). However, the authorization for reduced course load is solely for DHS purposes of determining valid F-1 status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school's minimum course load requirement.²⁹

How may an eligible F-1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?

An F-1 nonimmigrant student must file a Form I-765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship resulting from the current crisis in Haiti. Filing instructions are located at: <http://www.uscis.gov/i-765>.

Fee considerations. Submission of a Form I-765 currently requires payment of a \$410 fee. An applicant who is unable to pay the fee may submit a completed Form I-912, Request for Fee Waiver, along with the Form I-765 Application for Employment Authorization. *See* www.uscis.gov/feewaiver. The submission must include an explanation of why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). *See* 8 CFR 103.7(c).

Supporting documentation. An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to the DSO:

- (1) This employment is necessary to avoid severe economic hardship; and
- (2) The hardship is a direct result from the current crisis in Haiti.

If the DSO agrees that the F-1 nonimmigrant student should receive such employment authorization, the DSO must recommend application approval to USCIS by entering the

²⁹ Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, Web site, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

following statement in the remarks field of the student's SEVIS record, which will then appear on that student's Form I-20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I-766 until [DSO must insert the program end date or the end date of this notice, whichever date comes first].

The F-1 nonimmigrant student must then file the properly endorsed Form I-20 and Form I-765, according to the instructions for the Form I-765. The F-1 nonimmigrant student may begin working off campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that a F-1 nonimmigrant student be approved for Special Student Relief, the DSO certifies the following:

- (a) The F-1 nonimmigrant student is in good academic standing and is carrying a “full course of study”³⁰ at the time of the request for employment authorization;
- (b) The F-1 nonimmigrant student is a citizen of Haiti (regardless of country of birth) and is experiencing severe economic hardship as a direct result of the current crisis in Haiti, as documented on the Form I-20;
- (c) The F-1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of 8 CFR 214.2(f)(5)(v) and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level; and
- (d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the current crisis in Haiti.

³⁰ See 8 CFR 214.2(f)(6).

Application Filing. To facilitate prompt adjudication of the student's application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F-1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes all of the following documents:

(1) A completed Form I-765;

(2) The required fee or properly documented fee waiver request, Form I-912; and

(3) A signed and dated copy of the student's Form I-20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope that is clearly marked on the front of the envelope, bottom right-hand side, with the phrase "SPECIAL STUDENT RELIEF." Failure to include this notation may result in significant processing delays.

If USCIS approves the student's Form I-765, USCIS will send the student an EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

Temporary Protected Status Considerations

Can an F-1 nonimmigrant student apply for TPS and for benefits under this notice at the same time?

Yes. An F-1 nonimmigrant student who has not yet applied for TPS or other relief that reduces the student's course load per term and permits an increase number of work hours per week, such as Special Student Relief,³¹ under this notice has two options.

Under the first option, the student may file the TPS application according to the instructions in the [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] Federal Register Notice designating Haiti for TPS. All TPS applicants must file a Form I-821, Application for Temporary Protected Status. Although not required to do so, if an F-1

³¹ DHS Study in the States, Special Student Relief *available at* <https://studyinthestates.dhs.gov/students/special-student-relief> [last accessed March 2021]

nonimmigrant student wants to obtain an EAD based on their TPS application that is valid through February 3, 2023, the student must file Form I-765 and pay the Form I-765 fee (request a fee waiver). After receiving the TPS-related EAD, an F-1 nonimmigrant student may request that the student's DSO make the required entry in SEVIS, issue an updated Form I-20, as described in this notice and notate that the nonimmigrant student has been authorized to carry a reduced course load and is working pursuant to a TPS-related EAD. So long as the nonimmigrant student maintains the minimum course load described in this notice, does not otherwise violate the student's nonimmigrant status, including as provided under 8 CFR 214.1(g), and maintains the student's TPS, then the student maintains F-1 status and TPS concurrently.³²

Under the second option, the nonimmigrant student may apply for an EAD under Special Student Relief by filing the Form I-765 with the location specified in the filing instructions. At the same time, the F-1 nonimmigrant student may file a separate TPS application but must submit the TPS application according to the instructions provided in the [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] Federal Register Notice designating Haiti for TPS. F-1 nonimmigrant students who have already applied for employment authorization under Special Student Relief, are not required to submit the Form I-765 as part of the TPS application. However, some nonimmigrant students may wish to obtain a TPS related EAD in light of certain extensions that may be available to EADs with an A-12 or C-19 category code. The nonimmigrant student should check the appropriate box when filling out Form I-821 to indicate whether EAD is being requested. Again, so long as the nonimmigrant student maintains the minimum course load described in this notice and does not otherwise violate the student's nonimmigrant status, included as provided under 8 CFR 214.1(g), the nonimmigrant will be able to maintain compliance requirements for F-1 nonimmigrant student status while having TPS.

³² TPS-related EADs with certain validity dates are already extended for eligible beneficiaries of TPS Haiti through October 4, 2021 under the Federal Register Notice issued in compliance with preliminary injunction orders prohibiting the termination of Haiti's TPS designation. *See* 85 FR 79208 (Dec. 9, 2020) (specifying EADs and other documentation that is continued pursuant to the court orders).

When a student applies simultaneously for TPS and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?

The F-1 nonimmigrant student must maintain normal course load requirements for a “full course of study”³³ unless or until the nonimmigrant student is granted employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (e.g., clock hours for language students). Once approved for Special Student Relief employment authorization, the F-1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum requirements (with a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or a minimum of three semester or quarter hours of instruction per academic term if at the graduate level). *See* 8 CFR 214.2(f)(5)(v), 214.2(f)(6), 214.2(f)(9)(i) and (ii).

How does an F-1 nonimmigrant student who has received a TPS-related employment authorization document then apply for authorization to take a reduced course load under this notice?

There is no further application process with USCIS if a student has been approved for a TPS-related EAD. However, the F-1 nonimmigrant student must demonstrate and provide documentation to the DSO of the direct economic hardship resulting from the current crisis in Haiti. The DSO will then verify and update the student’s SEVIS record to enable the F-1 nonimmigrant student with TPS to reduce their course load without any further action or application. No other EAD needs to be issued for the F-1 nonimmigrant student to have employment authorization.

Can a student who has been granted TPS apply for reinstatement to F-1 nonimmigrant student status after their F-1 nonimmigrant student status has lapsed?

³³ *See* 8 CFR 214.2(f)(6).

Yes. Current regulations permit certain students who fall out of F-1 nonimmigrant student status to apply for reinstatement. *See* 8 CFR 214.2(f)(16). This provision might apply to students who worked on a TPS-related EAD or dropped their course load before publication of this notice, and therefore fell out of student status. The student must satisfy the criteria set forth in the F-1 nonimmigrant student status reinstatement regulations.

How long will this notice remain in effect?

This notice grants temporary relief until February 3, 2023,³⁴ to eligible F-1 nonimmigrant students. DHS will continue to monitor the situation in Haiti. Should the special provisions authorized by this notice need modification or extension, DHS will announce such changes in the Federal Register.

Paperwork Reduction Act (PRA)

An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653-0038.

This notice also allows an eligible F-1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status.

³⁴ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of February 3, 2023, provided the student satisfies the minimum course load requirement in this notice. DHS also considers students who engage in online coursework pursuant to ICE coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. See ICE Guidance and Frequently Asked Questions on COVID-19, *available at* <https://www.ice.gov/coronavirus> [last visited May 2021].

To apply for employment authorization, certain F-1 nonimmigrant students must complete and submit a currently approved Form I-765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I-765, consistent with the PRA (OMB Control No. 1615-0040). Although there will be a slight increase in the number of Form I-765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I-765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

Alejandro N. Mayorkas

Secretary,

U.S. Department of Homeland Security

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